

Claim 27 (currently amended): The drive system set forth in claim 24, wherein the tie rod is constructed and arranged for limited reciprocating rotation about the second pivot.

### **REMARKS**

Reconsideration of this Application is respectfully requested. Claims 1, 7, 23-25 and 27 are amended. Claim 26 is cancelled, without prejudice or disclaimer. Claims 8-17 were cancelled previously. Claims 1-7, 18-26 and 27 remain in this case.

Initially, the Examiner rejected claims 23 and 27 under 35 U.S.C. § 112, second paragraph, for indefiniteness. According to the Examiner, the term “tie” lacks antecedent basis and should apparently read - - tie rod - -.

\* \* \* \* \*

Claims 23 and 27 have been amended, accordingly, to better define the invention without limiting effect. Withdrawal of the Examiner’s rejection under § 112 is, therefore, respectfully requested.

\* \* \* \* \*

Next, the Examiner rejected claims 24, 25 and 27 under 35 U.S.C. § 103(a) as obvious and, therefore, unpatentable over Kludszuweit in view of Warrick. According to the Examiner, Kludszuweit discloses, in Fig. 7, a drive system having the structure substantially as claimed. The system, the Examiner continues, includes a manually-operable member 1.1, a first lever 2, a second lever 1, a tie rod 3, and a hydraulic pump 4. The Examiner indicates that although it is likely that Kludszuweit includes a hydraulic motor,

he acknowledges that such is not clear from the reference. The Examiner then looks to Warrick which, he asserts, discloses a similar system including hydraulic motors 31, 32. The Examiner concludes that it would have been obvious to modify Kludszuweit by including a hydraulic motor, as allegedly taught by Warrick, to provide an efficient means to drive the rear wheel. The Examiner also indicates that it is considered inherent that a hydraulic motor provides a mechanical advantage. Such mechanical advantage, the Examiner asserts, constitutes a “gearing effect” as broadly claimed.

Regarding claim 25, the Examiner asserts that Warrick teaches the use of a variable capacity pump, instead of a variable capacity motor. He takes Official Notice that use of either a variable capacity pump, or a variable capacity motor, is well known to achieve variable output. He concludes that it would have been an obvious rearrangement of parts to modify Warrick by using a variable capacity motor rather than a variable capacity pump.

The Examiner then indicated (i) that claims 1-7 and 18-22 are allowed, (ii) that claim 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth above, and to include all of the limitations of the base claim and any intervening claims, and (iii) that claim 26 would also be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. The Examiner indicated that, in the meantime, claim 26 is objected to as being dependent upon a rejected base claim, i.e., claim 24.

\* \* \* \* \*

Claim 23 is amended, accordingly, to better define the invention without limiting

effect. Claim 24 is amended to include all of the limitations of claim 26 in lieu of rewriting claim 26 in independent form to include all of the limitation of the base claim, i.e., claim 24. This is done to avoid an additional claim fee. Claim 26 is cancelled, accordingly.

Withdrawal of the Examiner's rejection under § 103(a) is, therefore, appropriate.

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It is noted that Applicant has, in addition, voluntarily amended claims 1 and 7, changing the term "said" to - - the - - and deleted the term "drive" in claim 25, for consistency of language and, hence, to better define the invention without limiting effect.

Applicant has made a good faith attempt to place this Application in condition for allowance. Favorable action is requested. If there is any further point requiring attention prior to allowance, the Examiner is asked to contact Applicants' counsel at (212) 768-3800.

Please charge any additional fees that may be required to our firm Deposit Account No. 50-0518.

Respectfully submitted,



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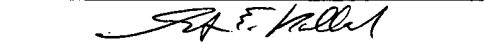
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Dated: August 25, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope with sufficient postage addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on August 25, 2004

Name Grant E. Pollack



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